

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 429 OF 2006

Arjun Narayan Patil & Ors. ... Petitioner

V/s.

IDBI Bank Ltd. & Ors. ... Respondent

Mr. K.S. Bapat with Mr. J.K. Desai for the petitioner.
Mr. R.V. Paranjpe for the respondent No.1.
Mr. G. Hariharan with Ms. R.H. Singh i/b. T.C.
Kavshile for the respondent Nos. 2 & 3.

CORAM : F.I. REBELLO, J.
 ANOOP V. MOHTA, J.
DATED : 21st March, 2006

P.C.

. The petitioners had moved respondent No. 2 by way of conciliation proceeding. Their case before respondent No. 2 was that the respondent No. 2 was the direct employer and contract between the respondent No. 1 and respondent No. 4 was sham and bogus. Respondent No. 2 submitted failure report to respondent No. 3. The appropriate Government in exercise of its power under Section 12(3) has rejected the reference as sought for by the petitioner. It is on that account that the parties have moved this Court.

2. From the record it appears that there was settlement in conciliation entered into between the petitioner on one hand and respondent No. 4 on the other to which Officers of respondent No. 1 and 2 were also signatories. By that settlement which is under Section 12(3) of the Industrial Disputes Act, respondent No. 4 agreed to offer employment to the petitioners and they were to report immediately at re-deployed places.

3. It is the case of the petitioners that though settlement has been entered into, the respondent No. 4 has not given effect to the said settlement. In the light of that, they have addressed a letter to the Senior Police Inspector, N.M. Joshi Marg Police Station on 08.04.2005. It is the case of the petitioner that they have written a letter to respondent No. 2 pointing out that conciliation settlement has not been given effect. It is therefore submitted that in these circumstances, there is no settlement in the eyes of law and consequently it was open to the petitioners to raise fresh dispute.

4. The law is well settled that it is open for the appropriate Government to refuse to make a

reference. However, that cannot be upon reasons which are irrelevant. Reference needs to be made as referred to in the Judgment of Apex Court in the case of **Secretary, Indian Tea Association V/s. Ajit Kumar Barat & Ors. 2003 SCC 1993**. The reasons given by the appropriate Government are that workmen union would not establish their claim that they are infact the employees of IDBI Bank Limited. It cannot be said that said reason is irrelevant. The settlement entered into between the petitioners on the one hand and respondent No. 4 on the other would clearly establish the relationship of workmen and employer. Once that be the position, it cannot be said that the order passed by the appropriate Government under Section 12(5) is arbitrary or without any authority of law.

5. However, considering the complaint by the petitioners that settlement has not been implemented, we direct the respondent No. 2 minimum to take steps to see that the settlement is implemented, if not implemented, by calling the petitioners and respondent No. 4 and thereafter passing appropriate steps including prosecution. If respondent No. 4 fails to comply with the terms of the settlement, action be

completed within six weeks of the order being served on respondent No.2 with above direction.

6. Petition stands disposed of. There shall be no order as to costs.

[F.I. REBELLO, J.]

[ANOOB V. MOHTA, J.]